

Texas Classroom Teachers Association



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Response to House Public Education Committee Request for Information Regarding COVID-19 Issues

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The Texas Classroom Teachers Association appreciates this opportunity to provide input on the effects of the COVID-19 on students, employees, and the public education system.

Health and Safety

TCTA members have reported to us a variety of reopening scenarios across the state, some of which are reasonable and some of which could endanger students and/or staff on campuses by not following basic health and safety protocols. The number of calls our legal department has fielded has significantly increased throughout the summer and early fall due to our members' concerns about local plans for reopening schools.

Some districts have failed to follow recommended (and common-sense) measures to ensure student and employee safety. In some districts, employees were required to attend in-person meetings prior to the start of school despite state guidance suggesting that such meetings take place remotely when possible. Many teachers were asked to teach remote classrooms on campus instead of from home, thereby unnecessarily exposing them to the other adults on campus. Our attorneys have heard of districts that initially provided work-from-home accommodations for teachers with health issues, only to revoke them later. One district is requiring teachers who have received accommodations to isolate due to being high-risk to work lunch duty and to cover in-person classes for teachers who are out. Many teachers are reporting that they have not been notified of potential exposure to individuals with confirmed COVID-19 infection on their campus. And while school officials and teachers are all concerned about ensuring the best possible educational experience, teachers are frustrated and overloaded as districts struggle with how to balance remote and in-person learning.

It is worth noting that some districts have done a commendable job of protecting staff and students as their campuses reopen. Good practices include – first and foremost – including employees and the community in developing and implementing health and safety protocols. Enforcing mask-

wearing, providing adequate space and equipment for social distancing, ensuring frequent and thorough sanitation, providing safe air quality and adequate ventilation, accommodating personnel and students with medical or other high-risk issues, and eliminating unnecessary contact outside of instruction are all basic measures that some districts are implementing well – but unfortunately some are not.

Even when district leaders attempt to do the right thing, the lack of consistency in guidance from state leadership and the politicization of the pandemic have led to confusion about what actions are legal and who has the authority to sanction such actions. The state has assured districts they have “local control” yet refuses to fund certain decisions.

When local health officials in several parts of the state with high COVID rates attempted to mitigate spread of the disease by preventing districts from opening to in-person instruction, the attorney general opined that such officials could not close schools to prevent future COVID-19 infections. Commissioner Morath subsequently announced that districts closing solely in response to such local orders would risk losing state funding.

TCTA has persisted in recommending to state leaders that metrics be developed by state health officials to guide campus re-openings. This would allow schools in areas with low infection rates to welcome students and employees on campus while ensuring that those in areas with higher/increasing rates are able to provide instruction remotely – with full funding – until conditions improve. To date, this basic action to ensure the safety of those on Texas school campuses has not taken place.

Reporting Requirements/Enforcement

TCTA supports efforts to ensure accurate reporting of COVID-19 cases in schools, though the rollout of the state’s new dashboard has been problematic. If parents are to be comfortable sending their children to schools, and if employees are to feel safe with in-person instruction, they all must be able to make decisions based on updated and accurate information.

Under TEA guidance, which has been incorporated into the Governor’s executive orders, schools are required to inform “all teachers, staff, and families of all students in a school if a test-confirmed COVID-19 case is identified among students, teachers or staff who participate on any on campus activities.” As noted previously, this is not happening consistently.

There should be an enforcement mechanism for state laws and executive orders relating to COVID-19 protocols. One Texas superintendent has openly stated that he will not enforce the governor’s face mask orders, and to our knowledge there is not a clear way to force compliance. **Employees and parents should have a well-publicized way to report concerns about district practices, and the state (or some other authority) should have the means to enforce current laws and policies. Sanctions should be imposed on districts or administrators who fail to comply with state policies.**

Availability of Personal Protective Equipment

We appreciate the efforts the state has made to provide PPE to schools and understand that this has been an expensive and logistically difficult endeavor. However, we are concerned that the state-

provided PPE, if used appropriately, will not be adequate for the school year. **Given the prevalence of predictions that COVID-19 will continue to be a problem throughout the school year and is likely to surge later this fall, it is important that the state commit to providing additional PPE throughout the school year.**

State Implementation of Federal Law

The Commissioner of Education chose to use \$1.3 billion in federal CARES Act funds intended for school district assistance to instead supplant general revenue obligations to public education. TEA required districts to use the funding as a method of finance to pay for the ADA hold harmless, thereby directly offsetting state general revenue that would otherwise have been expended for FSP funding for FY 2020. This money should have supplemented appropriated funds to assist districts with the many unanticipated costs the pandemic has caused, including PPE and technology enhancement. **To date, although such costs continue, the money has not been reallocated from TEA to be used for its intended purpose, and TCTA strongly urges that the Legislature intervene to ensure this is done.**

The Families First Coronavirus Response Act passed last spring ensured that employees who miss work for certain COVID-related reasons would have access to full or partial paid sick leave. This has been reassuring to a certain extent, but it is clear that such paid leave can easily be used up even absent a COVID diagnosis, as employees quarantine while awaiting test results. In a school setting, employees may need to be tested frequently and stay home until results are available, which can take several days each time. In addition, key provisions of the Act are due to expire Dec. 31, 2020. **In the absence of action by Congress to enhance and extend the sick leave protections of the FFCRA, we encourage the Legislature to provide additional paid leave covering COVID-related absences at least through the end of 2021.**

Resignation without Penalty

An issue important to teachers that has not been formally addressed during the COVID crisis is that of whether a teacher can resign after the resignation deadline without penalty for COVID-related reasons. Prior to the beginning of the school year, most teachers were not provided full, accurate information about how their district planned to handle in-person and remote education, and had no way of knowing what infection rates in their area would eventually be. Without details regarding their basic working conditions, it was impossible for teachers to make informed decisions about district employment for the upcoming school year prior to the deadline, which for most districts was in early- to mid-July. Even now, as districts continue to change policies and protocols and concerns about COVID spikes grow, some teachers, particularly those in high-risk categories, may need to resign to protect their health or that of other members of their households.

Under the Texas Education Code, the State Board for Educator Certification can only sanction an educator for contract abandonment if (1) the school district reports the educator for contract abandonment without good cause and (2) the educator did not have good cause to abandon the contract. The SBEC has defined “good cause” in 19 Texas Administrative Code 249.17(d)(1) (A) to include “serious illness or health condition of the educator or close family member of the educator.”

After Hurricane Harvey affected the ability of some displaced teachers to return to their classrooms, TEA issued guidance to districts to inform them that the agency considered teachers facing such circumstances to have good cause to abandon their contracts. **We have urged the Commissioner to apply this provision to teachers who resign their positions due to a good-faith belief that their continued employment will subject themselves or their family members to the more severe forms of COVID-19.** We are aware of some district officials who have stated they will not pursue certification sanctions in such situations, but to date there has been no specific guidance from the state on this issue.